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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 002086

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TAGS: PGOV PREL PTER CH

SUBJECT: CHINA WANTS EXTRADITION TREATY, JUSTICE VICE  
MINISTER TELLS FBI DIRECTOR

Classified By: Acting Political Minister Counselor  
Ben Moeling. Reasons 1.4 (b), (d).

Summary

¶1. (C) In a July 17 meeting with FBI Director Robert S. Mueller, PRC Vice Minister of Justice Hao Chiyong expressed hope that the United States would consider returning additional fugitives to China in the same manner as Bank of China suspect Yu Zhendong. VM Hao added that the PRC would like to sign an extradition treaty with the United States, as China had already done with thirty other countries. The Director said he supported extradition in individual cases, which could be accomplished without a treaty. He noted that differences remained between the U.S. and Chinese legal systems and pointed to the Rio Tinto case as an example of how China needed to improve transparency in its judicial system to build international confidence. End Summary.

Past Cooperation

¶2. (C) PRC Vice Minister of Justice Hao Chiyong, in a July 17 meeting with FBI Director Robert S. Mueller, praised U.S.-China law enforcement cooperation, which he said had grown more extensive since the signing of the Mutual Legal Assistance Agreement for Criminal Matters (MLAA). Hao cited the Bank of China "Kaiping" case as an example. Director Mueller agreed that the Bank of China case was an example of how the two sides could work together successfully, and noted that one defendant, Yu Zhendong, had already been returned to serve time in China.

Extradition of Fugitives

¶3. (C) Director Mueller said that other Bank of China defendants in the United States might be returned to China after exhausting their appeals. The case of Yu Zhendong showed that it was possible to send offenders back to China. VM Hao noted that the Bank of China Kaiping case was not yet complete and each individual case should progress to conclusion. He said that the PRC would like to see more post-conviction transfers to China. VM Hao assured Director Mueller, that "we are a rule-of-law country and we treat criminals in accordance with the law," for which Yu Zhendong's conviction and sentence in China served as evidence. "The rest of the Bank of China defendants should also be transferred to complete our cooperation," he added.

¶4. (C) VM Hao said China believed that the MLAA was not sufficient and that both the Ministries of Foreign Affairs and Justice supported signing an extradition treaty with the United States. Such a treaty would facilitate greater cooperation in fighting terrorism and economic crimes. VM Hao pointed out that the PRC had signed extradition treaties with over 30 other countries, providing ample mature sample treaty texts as well as many successful cases to use as precedents. Director Mueller agreed that an extradition treaty was an important part of the bilateral legal framework but noted the Departments of Justice and State would have the lead on the issue. In the meantime, the two sides should continue to exchange fugitives without an extradition treaty when circumstances allowed. Director Mueller recalled that the USG had suggested returning ten of the 100 fugitives that China had requested. Director Mueller agreed to work with China's liaison officers in Washington, DC to move forward on the first ten and explore the possibility of extradition. VM Hao expressed his appreciation for the Director's support in returning Chinese fugitives and agreed that China and the United States "could not wait for regulations to be made to proceed against terrorists and criminals." VM Hao added that neither side should wait for an extradition treaty to return economic criminals since these criminals entered the United States unlawfully and remained engaged in illicit activities, providing sufficient legal grounds for

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their removal.

#### Counter-Terrorism Cooperation and Transparency

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¶5. (C) Director Mueller added that he looked forward to addressing global issues and fighting global terror together with China. He said that since terrorism posed a threat to both the United States and China, it was important that we share information among our law enforcement, intelligence, and military communities. He added that it was important to exchange phone numbers and e-mail addresses so law enforcement officers could respond quickly to information before terrorism occurred. VM Hao replied that since terrorists changed methods and targets, world-wide efforts were needed to fight them.

¶6. (C) Director Mueller noted that fighting terrorism was difficult to grapple with because it required the interaction of judicial and intelligence sectors in ways that were new to the United States. He noted that the new administration was working hard to resolve these issues. Director Mueller said that the two sides could exchange information and lessons learned on how to process cases through the criminal justice system. The United States suffered in world opinion because of how we handled this issue in the past so the United States must proceed in a transparent, cautious way. He urged China to show similar transparency and allow outsiders to see how its judicial system worked.

Rio Tinto

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¶7. (C) Director Mueller said that the day before he had met with Prime Minister Rudd in Australia and Rudd had expressed concern about the lack of transparency surrounding the Rio Tinto case.

Director Mueller said that although this was not a U.S. matter, the world was watching how this case would be handled. The Bank of China case exemplified the transparency of the U.S. judicial system and lent credibility to the verdict in the eyes of the public in both countries. VM Hao responded that business secrets were important national secrets and asserted that the court would try this case under Chinese law and the rights of both sides would be respected. Hao said that the proceedings and verdict would be publicized. Director Mueller replied that transparency was important in the Rio Tinto case because the credibility of the Chinese criminal justice system was at stake.

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